P8

1942. R

Department of Revenue

OFFICE of the Board of Revenue

STATION Chepauk

[F. W.S & W.P]

Mis No. 945

A. 809/42

Dated 20. 4. 42

JEST 23 APR 1942

c. fols 1-6
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Pages in the file

(SUBJECT.)

Courts - Village Panchayat - (South Kanara)
Coondapur Taluk - Coondapur Use - Assista
Kannam - Filling up of vacancy - Instruction
issued

1

Ref.A1-8256-41.

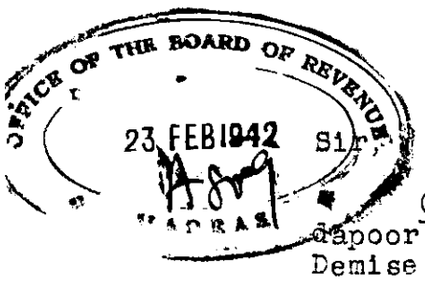
South Kanara Collector's Office,
Mangalore, 17th February 1942.

From

M. Karamatullah, Esq., I.C.S.,
Collector of South Kanara.

To

The Secretary to the Board,
Land Revenue and Irrigation,
Madras.



Courts - Village Panchayat - South Kanara District - Coondapoor Taluk - Coondapoor Panchayat Court - Assistant Karnam -- Demise - Appointment in his succession - Instructions solicited.

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P 11 of 7 (a)

In G.O.No. Misc. 275, Revenue Department, dated 11-2-1930, communicated with B.P.Misc.No. 562, dated 18-2-1930, the Government sanctioned the permanent retention of the Assistant Karnam employed in the Panchayat Court, Coondapoor. One K. Shanker Naik, who had been working as temporary assistant karnam of the Court, was accordingly confirmed in the post by the Sub Collector, Coondapoor, in his proceedings, R.Dis.1810-31, dated 30-3-1931. Shanker Naik expired on 10-6-1941 and the Assistant Collector, Coondapoor has appointed a qualified stranger in the vacancy -- after overlooking the claims of the heirs of the deceased assistant karnam on the ground that the post is not hereditary. The last office-holder's heirs have now preferred an appeal before me against the order of the Assistant Collector in the matter, claiming the post by hereditary right.

P 17 (E)

2. According to G.O.Mis.No.1636, Revenue, dated 5-9-1922, the post of Assistant Karnam is a part of the village establishment. And in the case of all village offices in this district, hereditary principles of succession are being observed through this is a non-hereditary tract. The question is whether the same principles should be extended to the post of assistant karnam also. As the rules do not seem to be clear on the point, I request the Board's orders whether the post of assistant karnam permanently attached to a panchayat court should be treated as hereditary for purposes of filling up vacancies therein and, if so, whether the qualifications required for the post are those

prescribed for that of a village shanbhogue (Karnam) in this district. I also solicit instructions whether, in view of G.O.No. Mis. 853, Government, Home Department, dated 4-6-1936, communicated with B.P.Misc. No. 1930, dated 9-6-1936, permanent appointments of assistant karnams should be made by the Collector himself and not by the Revenue Divisional Officers in cases of this kind.

P43 of 7 (Y)
P47 of 7 (Y)

For Collector.

19.2

P.S.

T. M.

From

The Asstt. Secy. Bd. of Rev. (L. R.

To

The curator, Madras Record Office

Subs:- Courts - Village Panchay (S. Kanara) Coondapur Taluk Coondapur Panchayat Court. Appointment of Assistant Karnam.

Please Read B.P. No. His. 562 d 18.2.1930 and a copy of G.O. No. 1636 Rev. d 5.9.1922 for current No. A 809/42.

25.2.42

25.2.42

HS(LR)

5

[705 GVP]

G.F. 16.

DRAFT FOR APPROVAL.

	Date.	Initials.
When received for fair copying ..	20/4	HS
When copied ..	21/4	CAS
When examined..	22/4	HS
When signed ..		
When despatched.		

SUBJECT:— Courts - Vge Panchayat - (S. Kanara) - Coondapoor Tq - Coodapur Vge - Assistant Karnam - filling up of vacancy - instruction - issued

READ AGAIN _____, dated _____ 19____

ppr-2, cf., From the Collr of S. Kanara 19____ Q.

Ref A1. 8856-41/17.2.42

READ *ALSO*:—

No. A 809 From the _____, No. _____, dated _____ 19____

" _____ " _____ " _____ " _____ 19____

" _____ " _____ " _____ " _____ 19____

~~Order~~ Resolution ~~Ms.~~ Rout. No. 945, dated 20/4/1942

The Collector of S. Kanara is informed in

para (4) (1) that G.O. No. Ms 853 Home dt 4.6.36 should be taken to carry down that ~~appointment~~ ~~is to be~~ part of an Asst Karnams permanently attached to a panchayat court, should be appointed by the Collector ~~not~~ by the RDO

Issue w/ copy

(2) that as the Asst Karnam can be called upon to assist the work of the Vge establishment with reference to G.O. Ms 1636 Revenue dt 5/9/22 it is desirable that he

para (5) (E)

is
Y specified for a vacancy
that is and

(3) Where the Heir of the Assessee
should not be treated
as hereditary for filling
up the vacancy, because
the appointments is made
under Act 7 of 1889 & not
under the Rules or B.S.O. 156.

10/4

for the order of C. Income

M,

A.S.(L.R.)

~~I.A.Ag.~~

Note File

Courts - Village Panchayat - (S. Kanara) - Coondapoor tk. - Coondapur Panchayat Court - Assistant Karnam - Demise - Appointment in his succession - Instructions solicited.

B.P. Mis. 1786/15.9.22 (E)

B.P. Mis. 562/18.2.1930 (Q)

B.P. Mis. 1930/9.6.36 (Y)

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pp 1-2 cf A. 809/42 [From the Coll. of S. Kanara Ref. A1-8256-41 dt 17.2.42]

To A.S.(L.R.)

p 11 cf. of (Q) According to G.O. No. Ms. 275 Rev. dt 11.2.30, the post of the Asstt. Karnam employed in the Panchayat Courts, Coondapur is a permanent-

para 1 p 1 cf. one. The permanent incumbent of the post expired on 10.6.41 and the Asstt. Coll. Coondapur appointed a qualified stranger in the vacancy overlooking the claims of the heirs of the deceased permanent Asstt. Karnam on the ground that the post is not hereditary. The heirs of the deceased office holder have now preferred an appeal before the Coll. against the orders of the Asstt. coll. claiming the post by hereditary right.

p 1 cf. of (E) According to G.O. No. Ms. 1636 Rev. d 5.9.22 the post of Asstt. Karnam forms part of the village establishment. In respect of all

para 2 p 1 cf. the villages in this dt. the hereditary princip of succession are being observed though it

non hereditary by status

" "

~~a non-hereditary fact~~. So the Collr. requests instructions on the following points to dispose off the appeal.— para 2 pp 1-2 of.

(1) Whether the hereditary principles of succession should be extended to the post of Asstt. Karnam attached to the Panchayat Court, Coondapoor.

(2) Whether this post of Asstt. Karnam shd be treated as hereditary for purposes of filling up vacancies and if so, 3(a) whether the qualifications required for the post are those prescribed for that of a village Shambhogue (Karnam) in this Dt.

(3) Whether in view of G.O. No. Ms. 853, Home Dept. dt 4.6.36, permanent appointments of Asstt. Karnams should be made by the Collr. himself and not by the R.D.Os. in cases of this kind. p 43 of 7 (Y)

~~As these questions are dealt with in the Village Officers' Seat, A4 may please note on these three points raised by the Collr.~~

B
2.3.42. Points (1) above:- The Village Officers in S. Kanara are strictly non-hereditary in character. But in filling up the vacancies hereditary principles are closely observed, ~~on the analogy of hereditary districts~~, such as E.g: as neither of the V.O's Acts is in force in that dt.

registry of minors ~~if the heir of the last office holder happens to be so~~. But the existence of nonhereditary still remains in as much as an heir cannot sue for recovery on fees and ~~also the provisions of Act III of 1955 have not been extended to South Kanara.~~

L.G.A. Rules. Under G.O. 156-1(3) the Assistant Clerk's office in Mysore deals in all districts except that newly created under Sec. 6(1) of Act III of 1955 is exclusively hereditary.

The Asst. Clerk's post attached to the village court is obviously ~~a different~~ from a regular VO's post inasmuch as it is sanctioned for a special purpose viz to assist the president of the court in maintaining registers of suits filed in the court and writing up proceedings. His appointment is governed by the

L.G.A. Rules provision of Sec. 12 of the Village Courts Act and is not under the VOR Rules or the rules framed thereunder. Though under the G.O. Mis No. 16-36 Revenue dt 5.9.1922,

G.O. Ref. E/ the office forms a part of the village establishment, but if for any reason, if the volume of the courts work falls below the prescribed average, it is liable to be abolished. Such a contingency is quite inconsistent with the principle of hereditary

It would appear unnecessary to extend the hereditary principles of succession in making appointments to the Asst. Kms offices attached to the Vpc courts.

Point 2 at p.2 N.f.:- The permanent retention of the Asst. Kms was sanctioned in G.O. No. Mis. 275 Revenue dt 11.2.1930. There is nothing for us to conclude that the said G.O. confers a hereditary right of succession on the basis of the last incumbent. So the office cannot be treated as a hereditary one

Point 2(a) at p.2 N.f.:- Strictly speaking Sec. 12 of the Vpc Courts Act does not prescribe any qualification for the Asst. Kms office except perhaps that an applicant should be known to read write the vernacular of the village which is the qualification prescribed for a member of the panchayat court under rule 4(iii) of the rule framed under the Act. The criterion seems to be that the Asst. Kms should assist the president of the court in keeping the register of suits preferred to the village court & in writing the proceedings of the court vide Sec. 10 of the Act. But in view of the G.O. No. Mis 1636 Rev dt 5-12-22 laying down that the Asst Kms would be a part of the village establishment

p18 Pt 24.

and though doing primarily the duties of the court, might be called upon to assist the work of the rgo establishment in general, it seems advisable to insist on the qualification prescribed for a karnam for orders. (though it is strictly necessary for rgo. court work)

Point 3 at para 4 :- The appeal mooted by the Asst. Com. rests with the Collector under Sec. 12 of the Act and consequently falls entirely outside the scope of the VOS Acts and GO. No. 156. So the procedure governing the appointment & punishment of ordinary village officers seems to have no application in the case of an Asst Com. of the Rgo court. The rgo courts Act prescribes no provision for an appeal against the Collr's order [in respect of the Asst Com's Min.]. The Govt in Rgo No. Mis. 853 Home dt 4.6.36 have already laid down that it is not permissible for any authority other than the Collector to appoint Asst Com. & process servers & attend to the work connected with the rgo court work.

By Order
K.S.
T8342

Note by A.S. (L:R.).

The points raised are:

(1) whether appointments to posts of Asst. Karnams permanently attached to a Panchayat Court, should be made by the Collector or by the R.p.O.

(2) whether the asst. karnam should possess the village shambogue's (Karnam's) test.

(3) whether such posts (of Asst. Karnam, permanently attached to a Panchayat Court) should be treated as hereditary for filling up the vacancy.

Joint Secy.
29 MAR 1942

Orders may be passed as follows:

Point (1). G.O. Ms. 853 Home d/ 4.6.36 should be taken to lay down that the appointment should be made by the Collector.

Point (2). As the Asst. Karnam can be called upon to assist the work of the village establishment with reference to G.O. Ms. 1636, Revenue d/ 5.9.22 he should be qualified for it.

Point (3). The hereditary principle is applied to village officers in South Kanara even to the extent of registering minors in practice. This however cannot be sufficient reason for treating the post in question as hereditary for the following reasons:

(a) In B.S.O. 156-I(3) the Asst. Karnam's Office in ryotwari tracts in all districts (except when created under sec. 6 (1) of Act III of 1895) is non-hereditary.

(b) When the volume of work falls below 500 suits, the post is liable to abolition. It is thus of a very temporary nature.

(c) The office is created for the special purpose of aiding the President and not for aiding the village establishment, ~~not~~ treated as part of it.

SECY.
2 M 1942

For orders
CS
28-3-42

A.S.(L.R.)

B.P. No. Mis. 945
Dated 20.4.42

~~Single Member~~
Two Members
~~Full Board.~~

1-A.	A.D.S. & L.R.	Assistant Secretary				J.S.	Secy.	M. 3	M. 2	M. 1
		L.R.	Irriga-tion	Sep. Rev.	C.T.					

1. Open file
   seen by

2. Final draft
   seen by

3. Now circulated to

4. Initials

Passed for record.

5.4.42.

A.S. (L.R.)

~~A.S. (Irrgn.)~~

A.S. (Sep. Rev.)

A.S. (C.T.)

A.D.S. & L.R.

~~1-A.~~

Secretary

Joint Secretary.

Note.- Entries not required to be scored out.

28/4